

Claremont Colleges Scholarship @ Claremont

Scripps Senior Theses

Scripps Student Scholarship

2016

The Non-Identity Problem: Finding a Narrow-Person-Affecting Solution to a Narrow-Person-Affecting Problem

Maura Duffey
Scripps College

Recommended Citation

Duffey, Maura, "The Non-Identity Problem: Finding a Narrow-Person-Affecting Solution to a Narrow-Person-Affecting Problem" (2016). *Scripps Senior Theses*. Paper 879.
http://scholarship.claremont.edu/scripps_theses/879

This Open Access Senior Thesis is brought to you for free and open access by the Scripps Student Scholarship at Scholarship @ Claremont. It has been accepted for inclusion in Scripps Senior Theses by an authorized administrator of Scholarship @ Claremont. For more information, please contact scholarship@cuc.claremont.edu.

THE NON-IDENTITY PROBLEM: FINDING A NARROW-PERSON-
AFFECTING SOLUTION TO A NARROW-PERSON-AFFECTING
PROBLEM

BY
MAURA DUFFEY

SUBMITTED TO SCRIPPS COLLEGE IN PARTIAL FULFILLMENT OF
THE DEGREE OF BACHELOR OF ARTS

PROFESSOR RIVKA WEINBERG

PROFESSOR YUVAL AVNUR

April 22, 2016

Table of Contents

Abstract.....	3
Chapter 1	
Introduction.....	4
Where We See the Non-Identity Problem Arise.....	5
Chapter 2	
The Scope of a Solution to the Non-Identity Problem.....	10
Derek Parfit and Principle Q.....	12
Elizabeth Harman and Changing How We Define Harm.....	16
Justin McBrayer and the Impersonal Duty Based Approach.....	23
Conclusion.....	27
Chapter 3	
Introduction.....	29
Woodward on Wronging Without Harming.....	29
Kavka on the Modified Categorical Imperative and Reproductive Extortion	36
How the Distinction Between Wronging and Harming Dissolves the Non-Identity Problem.....	44
Acknowledgements.....	45
Works Cited.....	46

Abstract

The non-identity problem attempts to explain the moral permissibility of certain procreative acts that determine a future individual's existence. If we accept that this individual's life is worth living, then we must also accept that these procreative acts are permissible. However, this is not the case. In this paper, I will argue against the permissibility of these acts and explain why our intuition, that these acts are morally wrong, is in fact correct. Because the non-identity problem affects particular persons, those whose existence is brought about, I argue in favor of a solution that explains that moral impermissibility in terms of the wrong done to this particular person. I do so by demonstrating why solutions offered by Derek Parfit, Elizabeth Harman, and Justin McBrayer have failed, whereas solutions offered by James Woodward and Gregory Kavka successfully explain moral impermissibility of non-identity acts in terms of wronging future individuals.

Chapter 1: The Non-Identity Problem and Why We Should Care About It

Introduction:

Whoever exists in the future depends on the actions of those who currently exist. Whether or not a particular person is born depends on who conceives them, and when they are conceived. If my mother had a child with someone besides my father, I would not exist because a different sperm and egg would have combined creating another child who would not be identical to me (Parfit, 352). The non-identity problem considers the obligations we may have to persons whose existences are dependent on our actions, when their existences are contingent upon some act that seems to harm them. In these cases, a person's worthwhile existence is dependent on the actions that caused whatever apparent flaw there may be in that existence. Therefore, the only alternatives are to not have that child, or to have a non-identical child at a different time (Parfit, 359). Here is where the non-identity problem arises. We have procreative acts that seem to have harmed someone by setting their interests back and therefore intuitively, it seems that these acts should be deemed impermissible, but the very existence of the person, an existence which is worthwhile, was dependent on that act. Because this existence is worthwhile, not doing the act that produced the harm doesn't seem to be acting in the person's interests because if the act that seems to have been harmful had not occurred, a different, non-identical child would exist. Therefore, we run into the problem, or as Kavka refers to it, the paradox of future individuals, of how we can explain the apparent harm done to these

individuals and why these seemingly harmful acts are impermissible (Parfit, 359).

Gregory Kavka refers to this as the paradox of future individuals because we follow logical premises based on biology and personal identity to a conclusion that is counterintuitive. We seem to be in a moral position where is very little which our obligation to future individuals demands of us (Kavka, 95).

Where We See the Non-identity Problem Arise

At first glance, it can seem difficult to understand why we should be so concerned about the non-identity problem, so we should consider tangible, real-world situations that demonstrate the relevance of the problem. First, historically, we can see the way in which policies or decisions have affected the movement of people which leads to procreative acts playing out in ways that could have been different had those policies or decisions been different. First, consider how we see the non-identity problem reflected in World War Two. The actions of the Nazi's not only led to millions of deaths, but also led to people fleeing Nazi Germany and other occupied areas. This movement of people likely affected who people met and who they procreated with. Now, say a person is conceived by someone who met their partner in the United States, where they ended up because they were fleeing the terror of the Nazi's. Their child has a life which he considers worth living and had his parent not fled to the United States, they would have procreated with a different person and had a non-identical child.

The non-identity problem also arises in the modern day, very relevant issue of global warming. This is a perfect example of the way in which the policies that we implement affect future generations. If we continue on the path we are on, the earth will likely continue getting warmer which will negatively impact future generations. We could continue practices which hurt our environment, but make our lives more convenient and rest on the assumption that those who exist in the future will have lives that are at least barely worth living. Alternatively, we could implement policies which defer the effects of global warming and cause a group of people to exist in the future who would be non-identical to the group that would have existed had we not implemented those policies, due to the way in which policy can affect the movement of people based on employment or housing availability. Those who will exist should we refrain from this change will not benefit in any way from our decision to do so because they will not exist in the latter scenario. Regardless, it seems intuitively true that to develop policies which will defer the effects of global warming, even if the people who exist otherwise will not be benefited in any way by this decision, is the proper course. The driving force behind this intuition motivates the non-identity problem in a way that we can see affects our lives perhaps more immediately than some examples which will be offered later.

Besides those examples which we see in our everyday life, philosophers who have addressed the non-identity problem have provided examples which more clearly demonstrate how the non-identity problem seems so problematic. First, consider Derek Parfit's radioactive waste policy example which involves a choice between two

policies: one policy, the Risky Policy, will eventually lead to a buildup of radioactive waste and will cause future people to die at 40 from an incurable disease caused by the radiation, however until that time, their lives will be worthwhile. Alternatively, the Safe Policy will stop this buildup of radioactive waste and future people will suffer not suffer this disease directly caused by the radioactive waste (Parfit, 372).

Due to the nature of policy change, whichever policy we implement will affect people's lives including where they move to, who they meet, and when and if they conceive children. The respective groups of people who will exist, depending on the policy we choose, will not be identical to each other. Therefore, we do not harm the group of people who will exist if we choose the Risky Policy because we have not set their interests back at all. Nor do we help them at all by choosing the Safe Policy because if we do so, a completely different group of people will exist. Because of these implications, it does not seem that we have a reason to choose the Safe Policy for the sake of future people if we will not harm or benefit future people either way.

Parfit also considers a fourteen-year old girl who wants to have a child immediately. She has the option of waiting ten years and having a child once she is older and more capable of caring for the child. However, if she waits, the egg that would have been used during conception of a child at fourteen will no longer be available, and she will conceive a non-identical child with a different sperm and egg. The fourteen-year-old decides not to wait and has a child and the child's life is at least barely worth living (Parfit, 358). The problem in this scenario is that our intuition tells us that for the fourteen-year-old to conceive now would be wrong, wrong to the

child, but if the mother does not conceive now she will have a non-identical child. Therefore, the mother waiting to conceive the child does not help the child whom we thought was being wronged by her actions.

Finally, Gregory Kavka considers parents who enter into a contract with a wealthy man to conceive a child. The parents will conceive the child, and upon its birth, they will give the child to the wealthy man to have as his slave in exchange for 50,000 dollars. If not for the contract and the monetary incentive, the parents had not planned on having a child. They sign the contract, conceive the child, and give the child to the wealthy man and the child lives out her life as his slave, however it is still a life at least barely worth living (Kavka, 100). If not for the contract, the child would not have been born.

In each of these examples, our intuition is clear: The Safe Policy should be chosen over the Risky Policy, the fourteen-year-old girl should not have a child, and the parents should not enter into the contract. However, in each of these cases, none of the people who seem to have been harmed are any worse off than they would have otherwise been. A person can be made worse off by having their interests set back or completely thwarted (McBrayer, 302). However, in each of these types of non-identity cases, none of the children's interests have been set back because their worthwhile existence is contingent upon the act that caused the apparent harm and their existence is, by definition, worth it. The group of people who exist if we chose the Risky Policy were only ever going to exist if that policy was chosen and if the radioactive waste was there to cause their painful diseases. The child that the girl has

at fourteen would not have been born had the fourteen-year-old girl waited ten years. The slave child would not have been born had her parents not entered into the contract that signed her away into slavery. Each child in these non-identity cases is no worse off than they would have otherwise been because each of their lives is at least barely worth living compared to non-existence. However, it seems intuitively as if they are somehow harmed, so we must figure out where that intuition comes from.

In this paper, I will consider some classic approaches to solving the non-identity problem and where they fail. I will then evaluate two approaches which are more successful and consider how they would help us address the aforementioned scenarios. Finally, I will argue in favor of my own approach to the non-identity problem, by considering where other solutions have failed or have been successful.

Chapter 2: What the Scope of a Solution Requires and Why Certain Solutions Fail to

Solve the Non- Identity Problem

The Scope of a Solution to the Non-Identity Problem

The arguments which I will first address will be those that I believe have failed to solve the non-identity problem. Although I will address how each has failed on its own terms, I also believe that they all have failed because of a common theoretical foundation of their solution. Each of the solutions I will reject is either an impersonal or a wide-person affecting solution. On an impersonal account, we are aiming for the best state of affairs foreseeable. Creating persons who will exist only in these apparently harmful conditions is wrong because we have duty to minimize the amount of suffering in the world (McBrayer, 300). According to a wide- person affecting view, we should follow the principle which is best for future people in general, regardless of particular identities. This means that we should follow the principle which will lead to the best circumstances for whoever will exist. Therefore, in non-identity cases, we consider the two persons who could exist, and choose to have the person who will be better off exist (Weinberg, 2016, 118). For example, in the radioactive waste policy example, the two groups of future people who exist are non-identical, so regardless of identity, we must choose whichever policy will lead the group who will exist to be better off. The group of people who will exist if we choose the Safe Policy will have better circumstances than the group which will exist if we choose the risky policy will have.

The problem with these types of solutions, whether they are based on either an impersonal or a wide-person affecting theory, is that they do not solve the non-identity problem, they speak past it. This is because the non-identity problem is a narrow-person affecting problem. Consider each of the scenarios I brought up. Each of those parents' and policy makers' acts seems to be wrong because they wronged some particular person. In the radioactive waste policy, choosing the Risky Policy seems wrong because that particular group of people who will exist will live with the harmful repercussions of the policy. They are not intuitively impermissible simply because some other group of people could have been better off or because we could have had a better state of affairs. They are wrong in virtue of the wrong that they have done to some particular person or group of people. There appears to be some wrong done to a particular person and that is where the problematic aspect of the non-identity problem comes into play: if that particular person could only have ever existed with that apparent harm, then how do we explain why or if the act that led to their existence is impermissible. Clearly, if we are going to solve the non-identity problem, we should be in search of a solution which is narrow-person-affecting. Because none of the following solutions are narrow-person affecting, they avoid the non-identity problem, rather than actually solving it, as a narrow-person affecting solution should.

Derek Parfit and Principle Q:

In addressing the non-identity problem, Parfit considers the threshold a procreative act must cross for it to be considered to have harmed someone to be that the act sets the interests of the person who comes into existence back to the point that their life is not worth living. The minimal threshold Parfit sets for a life worth living is that the life is at least barely worth living (Parfit, 363). A life that is not worth living is considered a harm. Otherwise, so long as someone's life is at least barely worth living, Parfit considers existence within that standard to be no worse than the alternative of non-existence.

Parfit's proposed solution to same number cases of the non-identity problem involves a principle he refers to as, Principle Q (Parfit 378). Principle Q states that if the same number of people will live regardless of which act we choose to do, it would be bad if those who do live have a lower quality of life than the people who could have lived instead (Parfit, 378). Parfit concedes that Principle Q is only able to addresses cases in which there are the same number of people however, and he goes on to argue that to solve the non-identity problem requires a broader principle which can answer scenarios where there are a different number of people. For example, Principle Q cannot tell us why the actions of the parents in the slave contract scenario are impermissible. In that case we either have one child or no children. However, for now, Parfit proposes Principle Q as a solution to same number cases, so this is the solution to which I will respond.

The most obvious problem with Principle Q is that it can only be applied in cases where the same number of people will exist. Beyond that limitation, Principle Q also faces the problem that it is a wide-person-affecting solution attempting to answer a narrow-person-affecting problem. This is a problem for Principle Q's plausibility as a solution for the reasons against wide-person affecting-solutions which I addressed in the section of this chapter, The Scope of a Solution to the Non-Identity Problem.

Another objection to Parfit's reasoning is that he neglects to consider that persons have interests other than how well off they are after a particular act (Woodward, 809). There is a difference between harming someone and wronging them, and the moral impermissibility of the types of acts which give rise to the non-identity problem may not be grounded in the harm they do, but rather in the fact that these acts wrong the person or people who will exist. Harm is assessed by the outcome of an act, but an act itself may be wrong without doing harm, and it is the wrong done to the future person which makes the act morally impermissible (Woodward, 818). James Woodward illustrates this distinction between harming a person and wronging a person through an example of a black man who is denied a plane ticket by a racist airline. The flight the man wanted to buy a ticket for crashes and everyone onboard is killed. By Parfit's standard of harm, the man is no worse off than he would have otherwise been. The man would have otherwise been killed, so he has not been harmed by the airline's actions (Woodward, 811). However, Woodward points out that the moral impermissibility of that act does not come from harm, i.e., setting the man's interests back, according to what they would have otherwise been,

but, instead, the act is impermissible because of the wrong done to the man, and that wrong is why the act is impermissible. Regardless of the outcome, and regardless of harm, the man had a right to choose to buy a plane ticket and not be discriminated against based on prejudice. This right was violated and through the violation of his rights, this man was wronged, regardless of the avoidance of harm which was technically the outcome of the act (Woodward, 811).

Parfit responds to Woodward by arguing that once a person realizes what they have gained, by the acts in non-identity cases (i.e. a life worth living), a person will waive their right to the alternative. For example, consider a case in which a person is unconscious and needs to have their arm amputated or they will die. Parfit argues that although the unconscious person may have a right to bodily autonomy, they will waive their right to consenting to the amputation because the alternative is worse for that person (Parfit, 855).

The problem with this response, however, is that Parfit is equivocating between harming and wronging by considering only the consequences of the act in order to ascertain harm, rather than considering the act itself, in order to ascertain wrong (Woodward, 823). We wrong someone when we violate their rights (Woodward, 823). There may be cases in which someone may consent to a violation of their rights, but this does not always justify the wrong done (Woodward, 823). A person's consent depends on their personal interest. Someone might have an interest in a certain outcome, but that might be at the expense of their being wronged and these remain two separate issues. Consider the man who was denied an airline ticket.

He may have had an interest in living which would make him feel grateful that the outcome of the airline's act was that he was not on the flight which crashed.

However, this lucky outcome, the lack of harm done, does not negate the fact that his right to buy a plane ticket was violated and based on that act, he was wronged by the airline (Woodward, 811). The harm done to a person is distinct from the wrong done. The example such as the amputation example, which Parfit poses, also overlooks the difference between non-identity cases and examples a violation of rights in which the person already exists and would be identical in the alternative outcome. There is a stark difference between the alternative to a person waiving their right to something being death and the alternative being non-existence. Death means missing out on something that a person had gotten to know and in most cases, had enjoyed at some points, that being life. Non-existence however does not come with any loss.

The non-identity problem is a narrow person-affecting problem. There is wrong done to a particular person. In order to assess why the act which led to this harm is impermissible, it should be explained in terms of why that particular person is wronged, otherwise, we are not necessarily deeming an act as wrong, but rather we are simply deeming one type of existence to be preferable. Consider the slave child example. Once that child has been brought into existence and has a life barely worth living, but worth living nonetheless, as a slave, a solution to the non-identity problem should be able to tell us why that particular child has been wronged. This is because regardless of whether that particular child enjoys the benefits of a life worth living, she is also the one who is enduring the burdens of being a slave. The alternative

group of people who could have existed, whom wide-person-affecting and impersonal solutions take into account, are not affected by these burdens. They don't exist. The particular person who has been forced to actually exist in these circumstances is the person affected by the act.

Elizabeth Harman and Changing How We Define Harm:

Elizabeth Harman offers an alternative solution to the non-identity problem which involves changing how we define harm and using her new standard of harm. Harman argues that her solution is in fact narrow-person-affecting, which sounds promising, but I argue that in actuality, due to the steps Harman takes in order to deem which types of harms may be permissible, her solution is actually wide-person affecting and is similarly as ineffective as Derek Parfit's. Harman argues that we are approaching the concept of harm incorrectly, when evaluating scenarios in which the non-identity problem arises (Harman, 107). Harman argues that we make a mistake in stating that a necessary condition of harm is: "an action harms a person only if it makes the person worse than she otherwise would have been if the action had not been performed" (Harman, 107). Harman is unsatisfied with this standard of harm and argues that the correct way to evaluate harm is as a sufficient condition. Harman's proposed account is that "an action harms a person if the action causes pain, early death, bodily damage, or deformity to her, even if she would not have existed if the action had not been performed" (Harman, 108). I will refer to this as Harman's Harm Threshold. Harman then assesses the moral wrongdoing in cases of the

non-identity problem by considering whether someone has been harmed according to this new standard of harm and weighing the harm against any benefits to determine whether that harm is permissible. Harman feels the need to use an alternative definition of harm in solving the non-identity problem because her approach involves not only deciding whether an act is harmful, but beyond that, she explains why certain harms are impermissible while others are not. Harman argues that knowing whether an act is harmful does require an analysis. Rather, she believes that the definition of harm she applies captures “clear cases of harm” (Harman, 92). Solving the non-identity problem is not a question of whether an act is harmful, but instead, of whether that harm is permissible or not. Therefore, we begin a solution by evaluating harm as a sufficient condition, and from there we assess whether that harm is permissible or not.

Harman’s solution to the non-identity problem involves first, redefining harm, and second, distinguishing between when harm is permissible and when it is not. Harman argues that here are scenarios in which harm occurs, but we describe them as not being harmful as a way of explaining the permissibility of the action, regardless of the harm (Harman, 91). Instead of distinguishing between whether or not someone is harmed, we should be discussing whether that harm is permissible, depending on the reasons for or against it (Harman, 91). Harman’s new definition of harm expands the kinds of acts which constitute harm, but this does not mean all of these acts are immediately impermissible. We determine what makes a harmful act permissible or impermissible based on whether our reasons to perform the act are stronger or weaker

than our reasons not to perform the act. For example, Harman uses the example of a surgeon who removes someone's swollen appendix by cutting a hole in their abdomen (Harman, 91). By Harman's Harm Threshold, the surgeon's action harms the patient. They cause bodily damage or pain. However, we need to go one step further to determine the moral permissibility of the harmful action by considering the reasons in favor of or against the action. Causing this harm is a reason against the action, however it is outweighed by the reasons in favor of the action. These reasons include the fact that the patient would suffer even more greatly and would even die if not for the surgery. Because these reasons in favor of the surgery outweigh the reason against it, the harmful act is permissible (Harman, 91).

Harman applies her assessment of harm to Derek Parfit's radioactive waste policy example in order to explain how she uses this standard of harm and assessment of impermissible versus permissible harm, in order to solve the non-identity problem. Intuitively, we want to be able to say that "it is wrong to adopt the [Radioactive Waste Policy (RWP)] because of the harm to the future individuals who will suffer" (Harman, 92). Via Harman's Harm Threshold, which states that an act is harmful if it causes early death, we know that adopting RWP is harmful. Now, we must weigh the reasons for and against adopting the policy in order to determine if it is actually impermissible. Harman considers the reasons in favor of adopting RWP. These reasons include that 1) the future individuals who will exist if we do choose the policy will enjoy benefits throughout their lives, and 2) if we do not adopt the policy then we, the current people, will be inconvenienced (Harman, 92). Now we must

weigh these reasons against the reasons we have in favor of not adopting RWP. These reasons include 1) that if we do not adopt the policy, the individuals who will exist if we choose the Safe Policy will enjoy benefits throughout their lives and 2) if we do adopt the policy, the individuals who will exist will be harmed (Harman, 93). Both groups who exist will benefit, but the harm that will occur to the group that will exist should we adopt RWP is a stronger reason to not adopt the policy than the inconvenience is a reason to adopt it. Therefore, the harm inflicted by adopting RWP is not permissible and we should not adopt the policy (Harman, 93). Notice that the application of Harman's solution has three elements: Harman's Harm Threshold which determines if the act is harmful, the argument that "reasons against harm are so morally serious t Therefore, the types of acts, such as choosing RWP in issues in which the Non-Identity Problem arises are morally impermissible because the harming action is wrong when there is "an alternative in which parallel benefits can be provided without parallel harms (Harman, 93).

Harman applies her solution to the case of the fourteen-year-old mother which Parfit poses. In that case, because the fourteen-year-old has the alternative option of having a child later, she has the option to provide "parallel benefits without parallel harms" and this is why the fourteen-year-old conceiving a child is wrong (Harman, 95).

I have two primary objections to Harman's solution to the non-identity problem, one of which can be illustrated by considering how her solution attempts to answer this example. My first objection to Harman's solution lies in it being a wide-

person-affecting solution to a narrow-person affecting problem. This objection requires more of an explanation than it did to Parfit's solution however, because Harman argues that she has provided a solution that explains the moral impermissibility of these acts "in virtue of harming the very future individuals whose existence is dependent on" that act (Harman, 90). Harman believes her solution is narrow-person affecting, but in fact, her solution requires us to do an act which is best for future people in general, making it a wide-person-affecting solution. The reason Harman believes her solution is narrow-person-affecting is because in her definition of harm, she explains harm in virtue of the particular person harmed. However, this is not her whole solution. The solution she provides for the non-identity problem explains the impermissibility of this harm through wide-person-affecting reasoning. By considering the benefits to the future people who would exist in each available act, Harman expands the scope of her solution to be wide-person-affecting. She argues that the fourteen-year-old mother conceiving a child is wrong because she had the option of having a non-identical child who would be better off than the child who would be conceived when the mother is fourteen.

Harman also makes the mistake of considering the benefits to merely possible people in her solution. In her paper, "Existence: Who Needs it? The Non-Identity Problem and Merely Possible People," Rivka Weinberg discusses this type of mistake of considering benefits to merely possibly people. Weinberg argues that it is nonsensical to consider the interests of someone who will never exist because interests only begin with existence. She states, "it makes little sense to worry about

depriving merely possible people of the benefits of life since there is no real subject for that deprivation” (Weinberg, 2012, 3). Harman commits exactly this error by including the benefits which the merely possible child who would have existed had the fourteen-year-old mother waited to conceive, would have had in her solution to the non-identity problem. Harman’s solution compares two groups of people, one of which is a group of merely possible people, and explains the moral impermissibility of an act based on why we should have chosen the act that would be better for future people in general.

Consider how Harman approaches the radioactive waste policy example. She weighs the harms and benefits of two groups of people: the group of people that will exist if we choose the policy, and the group that will not exist. I argue that there is no additional information we gain by considering how our actions affect persons who will not exist because they have no moral value; therefore, by weighing their possible benefits into our decision of whether an act is morally permissible, we’ve gained no new insight. We might consider this additional information relevant because our actions might be judged against the alternative action available to us, but this information still remains irrelevant to solving the non-identity problem. That additional information tells us why another option might be better, but it does not explain the impermissibility of the acts in question, especially not in virtue of the people who are affected by these acts. The only persons whose harm I would think to consider would be those who would be harmed by the action which brought them into

existence. The benefits that the persons who would not exist would have, were they too exist, are irrelevant.

Finally, Harman's solution is insufficient because it is too narrow to include some types of harm which we would intuitively want to categorize as being impermissible. For example, consider cases in which someone commits an intuitively morally impermissible act to an unconscious victim. The act leaves no physical pain, does not inflict bodily damage or deformity, nor does it cause early death. Further, because the victim was unconscious, there is not emotional trauma, a different type of pain. An example of this type of act is unconsented physical touching of an unconscious victim. When the victim regains consciousness, they have no physical pain to allow them to understand that they have been harmed. Nor do they recall the instance, so they have no emotional pain. By Harman's standards, this person has not experienced harm so we cannot assess the moral impermissibility of their assailants act by using her solution. Harm, by Harman's definition has not occurred here. Instead, there is a violation of rights that has occurred, in the violating of the victim's bodily autonomy and the neglect of her consent, and regardless of whether she finds herself to be benefited in some way, and regardless of whether the type of harm falls into the categories which Harman provides. The act is morally impermissible on the grounds that it has wronged the victim and violated her rights. However, Harman's solution provides us no method for addressing this type of violation and is therefore insufficient for explaining the moral impermissibility of acts that we find intuitively impermissible.

McBrayer and the Impersonal Duty Based Approach:

Justin Patrick McBrayer argues in favor of an impersonal duty-based solution to the non-identity problem. An impersonal ethics necessitates doing the action which will bring about the best states of affairs (McBrayer, 300). According to McBrayer's impersonal duty based approach to assessing why non-identity acts are impermissible, potential parents have an impersonal duty to bring about, or avoid certain consequences for their potential child (McBrayer, 300). On McBrayer's view, the wrongness of an action comes from violating this duty by "introducing an avoidable amount of suffering and evil into the world" (McBrayer, 300). However, McBrayer's solution also includes considering the context of the act which breaches this duty, so that not all procreation is necessarily always wrong. In making a moral assessment based on McBrayer's impersonal duty based solution, McBrayer also requires that we consider the specific context of the reproductive scenario of which we are assessing the moral permissibility. Considering the context of the scenario means considering the specific details of that scenario such as what the other options available to the reproducers are. For a reproducer's act to be morally wrong, they must have had and forgone the option to act in "an alternative fashion ...without imposing substantial burdens or costs on himself or others" (McBrayer, 304). Therefore, there are two elements to the impersonal duty based approach: our impersonal duty to minimize suffering, and a consideration of the alternative options available to the agent who is making the reproductive choice.

The example which McBrayer offers which I believe exemplifies his impersonal duty based and context considering approach is that of a man and a woman who suffer from Down's syndrome deciding if they should have a child. Knowing that there is a strong likelihood that any child they conceive will inherit a similar disability, they conceive and raise a child who has Down's syndrome (McBrayer, 305). In this case, McBrayer argues that according to his approach, since there was no alternative action available to the parents, aside from having to remain childless, if we consider this context, it is clear that the parents' decision is permissible. In this case, the parents suffering of not being able to have a child would outweigh the suffering of the child to live with Down's syndrome.

Let us consider how McBrayer's solution would apply to one of our earlier examples in which we see the non-identity problem arise. If we apply McBrayer's impersonal duty-based analysis of why some reproductive acts are impermissible, we choose the Safe Policy in Parfit's radioactive waste policy example because that policy leads to less foreseeable suffering being brought into the world than the risky policy does. By choosing this policy, we abide by our impersonal duty to reduce the amount of suffering we introduce into the world. This is because foreseeably, the group of people who will exist should we choose the Safe Policy will suffer less than those who will exist should we choose the Risky Policy due to those who will exist due to the Risky Policy dying early due to the nuclear waste having been disposed of improperly.

I disagree with this duty based approach because of its consequentialist nature, which causes it to run into all of the problems which are common to consequentialism. First, there is the problem of foreseeability. We cannot know that we will necessarily minimize suffering on a bigger scale by conceiving or not conceiving some child. Consider the child who is born with congenital amputation. This is the case where someone is born with no limbs. However, that person lives a fulfilling life, even becomes a successful marathon runner, and becomes an inspiration to athletes everywhere. No matter how much individual pain this person might endure, to say that there is an impersonal increase in suffering due to their birth, is presumptuous and unfounded. There is an individual who is suffering, but the effect it has on the world in general seems to be positive. The problem with this approach is similar to the problem with both Parfit and Harman's approach: it is a wide-person-affecting, in this case an impersonal solution, to a narrow-person affecting problem. A solution to the non-identity problem should be narrow-person affecting because it is that particular person who is born into the apparent harm and a consequentialist view negates any individual suffering and focuses on the state of affairs, which may have, in many cases, a huge potential for good. Therefore, an impersonal solution will be unable to address the non-identity cases that don't appear to reduce overall happiness.

Besides its foundational theoretical problems, I argue that McBrayer's impersonal duty based approach does not consider the child who will come into existence, but rather puts the parents first. In order to understand how his solution

does this, let us return to the example he provides of why the parents who know their child will have Down's syndrome are not morally wrong. First, recall McBrayer's consideration of the context of the scenario and his assessment that the parents only other option was to not have a child at all. This is simply not the case. I believe that McBrayer neglects to mention this option because for some people, having a child who is biologically related to them is a significant part of their desire to have a child. The parents did have the option to adopt, they simply wanted to have a child biologically related to them, McBrayer has asked us to disregard the option of adoption due to the parents' preference, rather than consideration of the child who will be forced into existence. McBrayer's solution comes down to a question of whether not having a child, or adopting a child, is worse than living with Down's syndrome and McBrayer's solution seems to benefit the parents by indulging their desire for a child rather than considering the child as a person in themselves who will actually be directly affected by this indulgence.

Beyond this, I believe that McBrayer's duty based approach helps itself to more than its impersonal foundation allows in considering context and this leads to a pure case by case solution to the non-identity problem rather than a solution. An impersonal account is simply incompatible with the consideration of case by case context. If we have an impersonal duty to do a certain act, then exceptions should not be made due to specific, or special, circumstances. If we have a duty to minimize suffering, and we believe that having a child who will be born without limbs would fall into the category of suffering, then regardless of the context of the situation, such

as that being the only option available, our duty remains and our having that child would be wrong. If an act is wrong because we have a duty to minimize the amount of suffering we bring into the world, then our duty to minimize that suffering does not end once it has a negative effect on our own happiness. By helping himself to the ability to consider each case and its details individually, McBrayer negates the impersonal foundation which he began with and is essentially just weighing the cost of the suffering against the benefits of existence on a case by case basis, which doesn't solve the non-identity problem as a whole at all. This is because it does not explain the impermissibility of the acts committed, it simply provides reasons for why some circumstances make these otherwise intuitively immoral acts morally permissible. This case-by-case style of addressing these scenarios does not address the non-identity problem because many non-identity cases do not involve more overall costs than benefits. The victims have lives that are worth living, by the nature of the non-identity problem.

Conclusion

Each of these three approaches to solving the non-identity problem falls short of actually solving the non-identity problem, be it Parfit's Principle Q, Harman's wide person affecting assessment of harm, or McBrayer's impersonal duty based approach. Each of them provides some reason why it seems better to choose the option which ends up with the person or group of people who seem better off, but they don't tell us why any of the acts in the three scenarios I mentioned are actually

morally impermissible. For example consider how these approaches solve the RWP example. For every solution posed, choosing the Safe Policy is better because a group of people will exist who will suffer less than those who would exist if we chose the Risky Policy. In the fourteen-year old mother case, each solution tells us the mother should wait to conceive in order to conceive a child who will suffer less. Finally, in the slave child example, Parfit's Principle Q cannot even fully address this case because a different number of people will exist, one slave child compared to zero free children. Harman's Harm Threshold, first, does not clearly address a lack of liberty as a harm, and beyond that, her weighing of reasons would possibly lead to the child's conception being permissible due to the benefits the child would receive from a life worth living. McBrayer's impersonal solution tells us the child should not be conceived because the parents are breaching their duty to not introduce avoidable suffering into the world.

None of the solutions explored in this chapter are able to tell us why these acts are bad for the person they actually affect. In the next section, I will address James Woodward and Gregory Kavka's approaches to solving the non-identity problem, and explain why those accounts better address the actual moral wrong present in the three scenarios through their consideration of the rights of current and future people and their proposal that an act can wrong a person without actually harming them.

Chapter 2: Reframing the Non-Identity Problem in Order to Solve It

Introduction

Unlike Parfit, McBrayer, and Harman, James Woodward and Gregory Kavka do not approach the non-identity problem by considering harm done. Rather, Woodward and Kavka accept that the persons in non-identity cases have not been harmed, but instead they have been wronged through some violation of their rights as will be argued in this chapter. Both of these accounts of wronging someone without harming them are narrow-person affecting solutions. They account for the wrong done to a particular person in which to wrong someone means to violate a right that they have. By explaining the moral impermissibility of the types of acts which give rise to the non-identity problem through how they wrong someone rather than how they harm someone, and explaining that wrong in virtue of the wrong done to the particular person, Woodward and Kavka have provided a substantially more successful answer to the non-identity problem than other attempts.

Woodward on Wronging without Harming

Woodward's solution to the non-identity problem is based on his rejection of the premise which he believes is most crucial to Derek Parfit's no worse-off argument, which he calls premise N. Premise N states that,

“an action, A, performed by X, cannot wrong person P and cannot be objectionable because of bad effects it has on P if P is not worse off as a result of A than he would be under any alternative action which could be performed by X. Nor in these

circumstances can A violate an obligation owed to P, or a right possessed by P” (Woodward, 808).

Counter to this premise, Woodward argues that persons have interests besides their well-being or how well off they are, overall, after an act, and that actions, not just states of affairs matter when assessing the morality of an act (Woodward, 809).

Parfit’s approach merely looks at the outcome of an act and is therefore too consequentialist for a consideration of the non-identity problem because regardless of whether our interests are set back, a right can be violated and that violation explains the moral impermissibility of a certain act even if the victim is not necessarily worse off. In order to illustrate this distinction between wronging and harming and therefore demonstrate how a person can be wronged even if they are not harmed, Woodward lays out three examples.

First, Woodward considers a situation of racism. Smith, who is African-American, attempts to purchase an airline ticket for some flight. The airline is racist though, and because Smith is black, the airline refuses to sell him a plane ticket. However, the flight for which Smith wanted the ticket crashes, killing everyone aboard (Woodward, 810). Had Smith been aboard that flight, he would have also been killed. Because the airline refused to sell Smith a ticket for that flight, he was not on the flight and instead survived. Smith has not been harmed in that he is no worse off than he would be if the airline had sold him a ticket; in fact, he is better off. However, regardless, we would not consider the airline’s act to be morally permissible. This is because when assessing the act, we consider something besides the harm done. Smith

was not harmed, but he was wronged. His rights were violated by having service refused on the basis of racism.

Another example which illustrates how someone may not be worse off after an act, but may still have their rights violated by that act, is the real-life example of Victor Frankl's experience in a Nazi concentration camp. In his memoir, "Man's Search for Meaning," Frankl states that through his experience in this concentration camp he, "developed certain resources of character, insights into the human condition, and capacities for appreciation that he might not have otherwise had" (Woodward, 809). Woodward considers that perhaps, the treatment of Frankl by the Nazi's was a "necessary condition for the richness of his later life" (Woodward, 809). If we only assess the Nazi's actions based on how well off Frankl is afterward, then we would have to say that the Nazi's actions were morally permissible, but this is horrifyingly counterintuitive, and for good reason. Regardless of Frankl considering himself to be better off by having gained these perspectives because of his experience, him being subject to this experience in the first place was a tremendous violation of his rights and the Nazi's actions were morally impermissible. Even if the outcome of their act had a positive effect on their victim, the act itself was morally impermissible regardless.

Finally, Woodward discusses an example originally posed by Derek Parfit, in which wronging without harming occurs which is more similar to the non-identity problem. A fourteen-year-old girl decides to have a child. According to Parfit, we can only say that it would have been better for her to have waited, not due to anything

done to her child, but due to, “what she could have done for any child she would have had when she was mature” (Parfit, 364). In this case, Woodward argues that, even if the child has a life worth living and is therefore not harmed, parents still have duties and obligations to “treat for and care for their children in certain ways” (Woodward, 815). Woodward compares the fourteen-year-old having this child when she is not mature enough to fulfill her obligations to the child, to making a promise knowing that you will not be able to keep it (Woodward, 815). The child is not harmed, but the mother did an act which includes an obligation she will be unable to fulfill, such as having the material and emotional capacity to care for the child. Therefore, that act is morally impermissible on the grounds of the wrong done to the child, the wrong being the mother’s neglect to fulfill her obligation to the child.

Now, we should consider how we can apply Woodward’s solution to the three examples utilized in chapter one, in order to examine how we can understand the moral impermissibility of those specific acts. First, I will apply Woodward’s wronging without harming solution to the radioactive waste policy example. According to Woodward’s solution, we would be able to ground the moral impermissibility in choosing the radioactive waste policy over the safe policy in the violation of the future people’s right to their bodily health. Regarding the case of the slave child, the parents are violating the child’s right to autonomy in taking away his liberty. Finally, the fourteen-year-old mother has brought a child into the world to whom she has obligations which she is unable to fulfill. In each of those cases, though the individual or group is not harmed in the sense that they are no worse off

than they would have otherwise been, they have either had some right violated or the fulfillment of some obligation denied, and that is where the moral impermissibility of the acts lie.

Parfit responds to Woodward's solution to the non-identity problem by discussing the particular way that rights and consent apply in non-identity cases, cases in which the person who these rights apply to and who can consent to them being violated, does not actually exist. In some non-identity cases, Parfit points out that one cannot violate a right that a person never had. In the case of a person who will only ever exist under certain circumstances, there are certain rights these persons never could have had fulfilled (Parfit, 364). For example, in the case of the child of the fourteen-year-old mother, if that child were to argue that her right to a good start in life was violated, Parfit thinks it is important to realize that she never had access to this right in the first place (Parfit, 364). The fourteen-year-old could have never had that particular child had she waited.

Further, regarding rights that the person could have had, Parfit argues that once the person who comes into existence realizes that they have gained something, i.e. a life worth living, they would waive their right to the alternative, namely, nonexistence (Parfit, 839). He argues that it is possible to "be compensated in advance for any burden" (Parfit, 839). To make this point, Parfit uses the example of a surgeon who needs to cut off someone's arm to save their life, but the person is unconscious, so the surgeon must act without first getting the consent of the person

she will be operating on (Parfit, 855). Clearly in this case, we would not want to have to say that the surgeon has wronged the person by acting in order to save their life. To this point Woodward responds that Parfit is equivocating between harm and wrong. Harm is dependent upon outcomes and wronging is dependent upon the act itself and the intention or motive behind the act. He argues that our rights exist to “protect highly specific interests” and if an act violates one of these interests, it is not enough of a defense of that act to simply argue that the act is not worse for us overall (Woodward, 809). Even if the person committing the act can foresee an overall benefit, that does not negate the wrong. There is still a rights violation being committed regardless of any beneficial end. We must consider the act and its intentions in order to assess a wrong.

In their paper, “Whose Problem is Non-Identity?” Rivka Weinberg and Paul Hurley discuss the role that consent plays in these types of rights violations in which Parfit claims that we should consider some type of retroactive consent to be at play. This means that when we consider the wrong done by apparently harmful act, or an act which violates a right, we should consider whether the person would have consented to it (Parfit, 855). For example, if someone is lying unconscious on a busy road, Parfit would argue that even if we violate their right by touching them without their consent, our moving them would not be impermissible because we can rationally believe that they, were they to have the option, would rationally consent to being moved to avoid being run over by a car.

Weinberg and Hurley argue that such an appeal to consent does not apply in non-identity where there may be factors present which could potentially undermine an agent's ability to consent to an act. These factors include: an impairment in the agent's ability to rationalize, compromising their authority, and circumstances of vulnerability compromising the agent's ability to exercise their autonomy (Hurley and Weinberg, 719). The fact that an agent has consented to an act which violates their rights, or does not regret the occurrence of such an act, is not indicative of the wrongness of the act. In the case of the surgeon, it is not presumed consent which makes the actions of the surgeon permissible, it is the surgeon being motivated by a respect for the patient as an end in himself (Hurley and Weinberg, 727). This is a factor which we do not see in the case of Smith being denied the airline ticket, or in the case of Frankl's imprisonment by the Nazi's. In both of those cases, whether or not Smith or Frankl would have reasonably waived their rights due to their being better off due to the act, Smith in that he lived rather than dying in the plane crash, and Frankl in that he believed his character was formed by the horrors he endured at the hands of the Nazis, is irrelevant to the assessment of the wrong. The airline and the Nazis both neglected to treat their victims as ends in themselves. They did not respect them as persons. Therein lies the wrong, and the question of whether the victims would have consented to this treatment had they known the outcome, is completely beside the point.

Another objection that one might raise to Woodward's solution is that in a discussion of rights, we also should consider the parent's right to reproduce. For

example, consider an adjustment to the example of the fourteen-year old who wants to have a child in which that is the only chance that girl will ever have to have a child. If she waits until she is of a more capable age, she will no longer be able to conceive a child. If Woodward considers rights violations to be central to wronging someone, then perhaps we should consider the mother wronged if his solution to the non-identity problem violates her right to have a child.

I would respond to this potential objection that even if we have a right that right does not extend to allow us to violate someone else's right in order to retain our right. If the fourteen-year-old has a right to have a child, she still does not have the right to violate the obligations she would have to that child once it exists in order to fulfill her right. Her inability to conceive later, although unfortunate, is not a wrong anyone has done to her, but her having the child is her actively wronging the child.

Woodward's solution is so successful because it assesses the morality of an act by considering the act itself, rather than some outcome beyond that. Persons should be held responsible for their actions themselves, not for the outcome of their actions and how lucky they happen to be in whether their actions have positive consequences.

Kavka on the Modified Categorical Imperative and Reproductive Extortion

Gregory Kavka's solution to the non-identity problem also grounds the impermissibility of non-identity problem inducing acts in how they wrong the person who is created. Kavka's solution involves two elements: a modified categorical

imperative and a limitation on creating restricted lives. Kavka argues that an intuitive belief that leading a restricted life is undesirable underlies our intuitive reaction to these cases being wrong (Kavka, 105). We then can use the modified categorical imperative to explain why the people committing these acts have wronged those whom they produce to whose creation their actions lead. These acts wrong their victims because they treat them as a mere means to an end. They sentence those who will be created to these restricted lives in order to gain something they want, and justify this sentencing by claiming that they have provided the person who will exist with someone which they would have an interest in, that something being a life worth living (Kavka, 110).

Kavka considers a restricted life to be a life that is “significantly deficient in one or more of the major respects that generally make human lives valuable and worth living” (Kavka, 105). Kavka’s modified categorical imperative, “forbids treating rational beings, or their creation as a means only, rather than as ends in themselves” (Kavka, 110). We commit reproductive extortion when we use someone or their creation as a mere means to an end through coercion by claiming we have provided them with a life worth living, something we assume they would want.

Kavka describes how this applies to non-identity cases as being when parents, “exploit their unearned position of control over life for others to, in a sense, extort an unfair price for the exercise of those powers. But because the benefit they provide-life itself- is greater than the unearned price they exact, their actions do not appear immoral” (Kavka, 106).

Through assessing the morality of reproductive acts with this modified categorical imperative we can explain why reproductive extortion is wrong and ground the moral

impermissibility of acts that give rise to the non-identity problem in how they extort the person or people who will exist.

Kavka illustrates how to apply the modified categorical imperative when we see this type of reproductive extortion through the slave child case which was discussed in chapter one. Consider again the parents who enter into a contract with a wealthy man. They will conceive a child and give him that child once it is born in exchange for 50,000 dollars. The parents are misusing their reproductive power, their ability to have a child. They are treating the child as a mere means of attaining 50,000 dollars. Any benevolence towards the child, which Kavka believes is unlikely to be intended by the parents, is negated by this obvious act of extortion (Kavka, 101).

Now, we should consider how Kavka's solution could be applied to the other two scenarios in which we saw the non-identity problem arise in chapter one: the case of the radioactive waste policy and the case of the fourteen-year-old girl having a child. First, I will address how the modified categorical imperative reveals the immorality of choosing the radioactive waste policy over the safe policy. The misuse of reproductive power here is more difficult to see at first because it is not as direct as the immediate effects an act has on a child who is born soon after the act. However, when we choose the radioactive waste policy, there is still a problem of a misuse of reproductive power. We know that policies shape where people will live, which affects who people will meet, which affects who and when they will conceive. Those who choose the radioactive waste policy are misusing their power to gain a more convenient lives for themselves, and intentionally creating lives of people who will

suffer as a result of that choice. The resulting persons' lives are being used as a mere means to a more convenient end which violates the modified categorical imperative and is morally impermissible.

Finally, we can see how the modified categorical imperative solves the issue of the fourteen-year-old who wants to have a child. This girl is forcing the child into an agreement which, were it to have an alternative, it may not have agreed to. She is trading the child a life worth living under the circumstances of not having all of the obligations it is owed fulfilled. Once the child is born, it may not regret that it has a life worth living, but for the child to wish for a parent that could fulfill her obligations to that child would not be an unmerited complain. The mother wants to have a child at this moment in time in particular, and uses the creation of that particular child as a mere means to achieve that, neglecting to consider the burden she is imposing upon the child, she could easily wait to have a non-identical child.

One objection which could be made to Kavka's solution is that nothing is actually wrong with the act itself, rather, the wrong is in the motivations or subsequent actions (Kavka, 101). First, the motivations of greed might actually be where the wrong lies, rather than in the act. The parents are acting selfishly and are being consumed by their own greed. Although it could be said that all procreation is selfish, there is a difference between traditional procreative selfishness and the selfishness which the parents in this scenario are acting upon. If the parents intended to have a child simply because they wanted a child, and intended to care for that child once it existed, as most potential parents do, they are not intending to continue acting

selfishly considering the immense amount of selflessness that comes with raising a child. In the slave child case on the other hand, the type of greed and selfishness that could cause us to think the motivation is what makes the act wrong is the pure, unchanging, intended selfishness. They are motivated by the monetary gain the child will bring, and fully intend to never act in the child's interest. It could be said that this intention of greed is actually what we find intuitively wrong. Kavka responds to this objection by considering a modification to the parents' motivations in the slave child example. He changes the slave child example so that, instead of using the money for themselves, the parents donate all of the money which they received in exchange for their child to charity (Kavka, 102). This was their intention from the beginning and they follow through with it. Even in this case, Kavka responds, our intuition remains that the act is wrong, and this is because even with good intentions toward another group of people, the parents do not have the right to condemn this child to slavery.

Alternatively, regarding Kavka's argument, it could be argued that it is actually the subsequent actions the creators take, not the initial act itself, which we find intuitively wrong. It is not the engaging in the contract, but the actual surrendering of the child once it is born which is morally impermissible because that violates a specific parental obligation to the child (Kavka, 101). Therefore, if the parents of the slave child were to enter into the agreement and once the child is born, they were to do everything in their power to release the child from the agreement, this would be admirable and the act itself would not matter, because once the child existed, they did attempt to care for it as best they could. Kavka responds to this that

because they had knowingly entered into the agreement with the belief that the child would be given to the slaveholder at its birth, they're act is still wrong. Although they did their best once the child was born, they knew that this would not be good enough so any subsequent actions should not affect our judgement of the morality of the initial agreement (Kavka, 102). Additionally, this is not simply a possible person once the parents agree to the contract. It is a future person. This person will exist and will have future interests. Those interests exist once the parents make the decision to have the child, therefore the initial act is wrong, in addition to the subsequent act being wrong. Both acts violate the child's rights.

A third objection which could be made to Kavka's solution is that the concept of a restricted life is too vague, therefore the requirement that we limit the creation of restricted lives is not motivating enough to be a part of a plausible solution. Although this apparent vagueness may seem to be harmful to Kavka's solution, as long as we fully understand the role that this concept of a restricted life actually plays in Kavka's solution, any vagueness that the term comes with is not an issue. Kavka uses the concept of a restricted life to explain our initial intuitive reaction and acknowledges that there could be a certain level of subjectivity within the term (Kavka, 104). However, the solution itself, does not rely on the subjective term for its explanatory power. Kavka's solution for the non-identity problem is the modified categorical imperative, which simply restricts using a person or their creation as a means to an end. He does argue that we should limit the creation of restricted lives because we find the intentional creation of these types of lives, when we could create otherwise,

to be intuitively unappealing (Kavka, 104). However, this is not his reasoning for why the acts that give rise to the non-identity problem are objectively morally impermissible and therefore the vagueness of the term is not an issue.

I find Kavka's solution to the non-identity problem to be the most successful of those discussed thus far. It grounds the moral impermissibility of the types of acts which lead to the non-identity problem in wronging, rather than harm and explains why some particular person is wronged. Beyond this however, it addresses any element in these cases which seems to distract us from the true moral wrong of the act by appearing to do some kind of good for the person affected by the act. For example, if the slave child, even has a slave, was provided with an incredibly lavish lifestyle, it is more difficult to see how his interests are not being met. However, Kavka's solution explains how even if the victim in these cases seems to be benefited or have their interests met, the moral wrong of the act should still be clear. Even if the slave child believes his life is inarguably worth living, this benefit does not justify the wrong, rather, it exemplifies the form of reproductive extortion that is occurring. Kavka illustrates this type of extortion through the example of a tribe who is in a drought. Consider if every member of the tribe is suffering greatly and in dire need of water, and one member of the tribe finds water a copious source of water. That person does not reveal to anyone else that they have found this source, rather, they sell water at an excessively high price to whoever can afford to pay it (Kavka, 106). This is immoral extortion, and we can see how it is wrong regardless of the fact that the tribe members' interests, of having their thirst quenched, is met. Similarly to this, for a

parent to misuse their reproductive power to gain something from the creation of a child, and to attempt to justify this by saying that they have provided that child with something which the child will value, a life worth living, is wrong regardless of any interest of the child met. This element of reproductive extortion which Kavka includes in his solution helps him to reach the most complete solution to the non-identity problem thus far.

This type of reproductive extortion is exactly the issue which Weinberg and Hurley discuss as mentioned earlier. There appears to be consent on the side of the victim to a waiving of their rights, but in actuality, the issue of whether the victim would consent to the rights violation is irrelevant due to the manner of the presentation of the option of consent. The victim is placed in a situation that is wronging them, by the nature of the act committed, and is then expected to consent to such an action because doing so is, at that point, in his best interest (Hurley and Weinberg, 720). Weinberg and Hurley put the true nature of this type of consent in non-identity cases most honestly when they claim that the victim in these cases is presented with the choice of, “[their] life with a serious disability or [their] life” (Hurley and Weinberg, 720). This pseudo-choice is in no way a genuine portrayal of consent, but rather is the type of reproductive extortion which Kavka discusses.

How the Distinction between Harming and Wronging Dissolves the Non-Identity Problem

Beyond just solving the non-identity problem through explaining why the types of procreative acts which give rise to the problem are in fact morally impermissible, the harming versus wrongdoing distinction shows us how we can dissolve the non-identity problem completely and avoid the paradox that Kavka initially set up. In his initial presentation of the non-identity problem, Derek Parfit approaches the problem from a staunchly teleological perspective. He is so troubled by our inability to demonstrate the wrong in non-identity cases because of the fact that the apparent victim is not worse off, and is in some cases, even better off than they would have otherwise been. However, this focus on outcomes distracts us from how solvable the problem actually is when we approach it from a deontological standpoint and consider what Hurley and Weinberg refer to as second personal

A person's second personal interests refer to our interests in how we are treated by other people, our interpersonal relationships (Hurley and Weinberg, 706). Regardless of how a situation turns out, we have an interest in being treated as ends in ourselves rather than as mere means. It is this second-personal interest that we see being violated in non-identity cases. When we reframe the non-identity problem in order to consider it from a deontological rather than teleological perspective, as Woodward, Kavka, Hurley, and Weinberg all successfully do, we are able to solve the non-identity problem by easily addressing how the types of acts in which it arises are morally impermissible.

Acknowledgements

I wish to express my most sincere thanks to Professor Rivka Weinberg for her guidance in writing this thesis. I am lucky to have had access to her particular expertise on this subject, not only through her many writings regarding the non-identity problem, but through countless meetings, comments, and encouragement. I would also like to thank her for being a guide, not only throughout this project, but throughout the entirety of my four years at Scripps College.

I would also like to thank Professors Yuval Avnir for his comments and guidance, as well as Professor Dion Scott-Kakures for his support and assistance in choosing this fascinating topic. Finally, I would like to thank my family and friends for their support and sympathy for the last few months.

Works Cited

- Harman, Elizabeth. "Can We Harm and Benefit in Creating?" *Philosophical Perspectives* 18.1 (2004): 89-113.
- Kavka, Gregory S. "The Paradox of Future Individuals". *Philosophy & Public Affairs* 11.2 (1982): 93–112. Web.
- McBrayer, J. P. (2008), Rights, Indirect Harms, and the Non-Identity Problem. *Bioethics*, 22: 299–306.
- Parfit, Derek. "Comments". *Ethics* 96.4 (1986): 832–872. Web.
- Parfit, Derek. *Reasons and Persons*. New York: Oxford UP, 1984. Print.
- Weinberg, Rivka. "Existence: Who Needs It? The Non-Identity Problem and Merely Possible People." *Bioethics* (2012): 1-14. Web.
- Weinberg, Rivka. *The Risk of a Lifetime: How, When, and Why Procreation May Be Permissible*. New York: Oxford UP, 2016. Print.
- Weinberg, Rivka, and Paul Hurley. "Whose Problem Is Non-Identity?" *Journal of Moral Philosophy* 12 (2015): 699-730. Web.
- Woodward, James. "The Non-identity Problem". *Ethics* 96.4 (1986): 804–831. Web.